Objective: Justice

A United Nations Review Dedicated to the Promotion of Justice through the Self-determination of Peoples, the Elimination of *Apartheid* and Racial Discrimination, and the Advancement of Human Rights

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Namibia: A Nation is Born

"Shortly after midnight on 20/21 March 1990, at the National Stadium in Windhoek, the flag of the Republic of South Africa was lowered and the flag of the Republic of Namibia was raised, thus marking the accession of Namibia to independence."

United Nations Secretary-General Javier Pérez de Cuéllar thus reported to the Security Council on 28 March 1990 the event that marked the birth of a new nation.

Namibia's transition to independence was overseen by the specially created United Nations Transition Assistance Group (UNTAG), in an operation unprecedented in United Nations history.

The operation put into practice the United Nations plan for Namibian independence, approved in 1978. According to the plan, independence was to come through the election of a Constituent Assembly, which would draft a Constitution for the new nation. The electoral process was to be supervised and controlled by UNTAG, a multinational force with both military and civilian components.

On 31 March 1989, UNTAG's top official, the Secretary-General's Special Representative for Namibia, Martti Ahtisaari, of Finland, arrived in Windhoek, Namibia's capital, as the UNTAG contingent was being deployed throughout the Territory. The implementation of the independence plan had started.

UNTAG was made up of people from 124 nationalities. An international staff of some 900 civilians was to oversee the whole electoral process, organized by the Namibian authorities, culminating in the election in November 1989. UNTAG's 1,500 police officers were to ensure a smooth electoral process and to monitor the local police. Its 4,300 military staff were to monitor a cease-fire, and the withdrawal and demobilization of all military forces in the Territory.

The South African–appointed Administrator-General for Namibia, Louis Pienaar—who administered the Territory—handled all aspects of the electoral process, under the close observation of Special Representative Ahtisaari.

UN Photo/M. Grant

Namibians register to vote under UNTAG supervision.

Registration of voters began on 3 July 1989. By 20 July, some 340,000 Namibians had already been registered. When the process ended on 23 September, the total had reached 701,483. The phenomenal rate at which Namibians registered was in itself a vote of confidence for the United Nations–supervised independence process.

Another sign of trust was the record number of Namibian exiles returning home. By 5 August 1989, 34,238 had been helped with repatriation by the United Nations High Commissioner for Refugees (UNHCR)—of 41,000 registered with that agency. Many of the remaining exiles were returning on their own, UNHCR reported.

The country was divided into 23 electoral districts. In urban areas, there were 36 permanent and 33 temporary registration centres. Some 2,200 rural registration points were covered by 110 mobile registration teams.

To qualify to vote, a person had to be 18 years of age or older and had to be born in Namibia, the child of at

least one parent born there, or a resident of the Territory for at least four years.

UN Photo/M. Grant

A voter casts her ballot at a Windhoek polling station.

UNTAG shadowed the South African electoral officers at all levels. The South African–appointed registration officers were accompanied by an UNTAG supervisor. Three UNTAG members were attached to each of the 110 mobile registration teams.

At the end of each day, UNTAG team leaders called in to their district offices the results of the day's work. District offices reported daily to UNTAG Electoral Division headquarters in Windhoek. Information on all aspects of the operation were continuously relayed to the Namibia Task Force at United Nations Headquarters in New York. Chaired by the Secretary-General, the Task Force met every day to follow the situation.

The vastness of the Territory made registration daunting. Namibia is larger than the United Kingdom and France put together—some 318,261 square miles (824,269 square kilometres) in land area. More than 75 per cent of the estimated population of a million and a half live in rural areas.

Free and Fair Elections

The elections, held from 7 to 11 November 1989 to choose the 72 delegates to the Constituent Assembly, saw a voter turnout of 97 per cent. UNTAG monitored the balloting and counting of votes.

UN Photo/M. Grant

UN Special Representative Ahtisaari certifies elections as "free and fair".

On 14 November, Ahtisaari declared that the elections had been "free and fair". Namibia "has given the whole world a shining lesson in democracy", he said.

The South West Africa People's Organization (SWAPO) obtained 57.3 per cent of the votes and 41 Assembly seats. The Democratic Turnhalle Alliance (DTA) obtained 28.6 per cent and 21 seats. The remaining 10 seats went to the United Democratic Front (4) and Action Christian National (3), with one each also to the Federal Convention of Namibia, the Namibia National Front and the National Patriotic Front.

SWAPO leader Sam Nujoma said on 15 November that SWAPO would "not impose its will on others, nor a one-party State against the wishes of the people". South Africa on 20 November said that it was ready "to work constructively with the future Government of Namibia". By 22

November, South Africa's remaining troops had returned to South Africa.

UN Photo/M. Grant

Ballots are counted in Windhoek.

The Constituent Assembly met for the first time on 21 November, and adopted as a working document the Security Council constitutional principles, drafted in 1982, which provided for a multi-party democracy. In January 1990, the Assembly set 21 March 1990 as Independence Day.

On 9 February 1990, the Constituent Assembly approved the newly drafted Constitution by consensus. The document, the Secretary-General said, was "a model of democratic construction". On 16 February, the Assembly elected Sam Nujoma as President of the Republic for a five-year term.

On 21 March, at the National Stadium in Windhoek, the Secretary-General administered the oath of office to Namibia's first President. "In the name of our people, I declare that Namibia is forever free, sovereign and independent," Nujoma said. "As of today, we are masters of this pastoral land of our ancestors... Africa's last colony is, from this hour, liberated."

"I stand here tonight as an advocate of peace", said South Africa's President F.W. de Klerk, who shared the

podium with President Nujoma and the Secretary-General. "The season of violence has passed for Namibia and the whole of southern Africa...Good neighbourliness is in our mutual interest."

"The independence of Namibia," the Secretary-General said at the ceremony, "marks the triumph of the international rule of law. The achievement bears eloquent testimony to the strength of the norms of democracy and human rights.

UN Photo/J. Isaac

Namibian President Nujoma makes his inaugural speech as South African President de Klerk lends an ear.

"Namibia has been the special concern of the United Nations from its earliest days," the Secretary-General observed." The historic process of decolonization, which has so vigorously been promoted by our Organization, generated a new imperative for Namibia: the restoration to its people of their inalienable right to independence. Every

principal organ of the United Nations has been engaged in this great issue...The aspirations of Namibia have prompted countless acts of support and the dedicated work of the deliberative bodies of our Organization.

"The international community has played an unprecedented role in the establishment of your State," he added. "The struggle of your people has been our struggle. Their success has moved our hearts... Few nations will have achieved independence with the degree and breadth of international goodwill and support which Namibia now enjoys."

The Difficult Path to Independence

The vast, sparsely populated land of Namibia became a German protectorate in 1884. Known as South West Africa, it was surrendered in 1915 to South Africa, and was administered by that country under a 1920 League of Nations Mandate.

In 1946 the United Nations General Assembly recommended that South Africa place the Territory under the United Nations Trusteeship System. South Africa refused, and in 1949 informed the United Nations that it would no longer transmit information on the Territory, on the grounds that the Mandate had expired with the demise of the League of Nations.

In 1950, the International Court of Justice held that South Africa continued to have international obligations towards the Territory, and that the United Nations should supervise its administration. South Africa rejected the Court's opinion.

On 27 October 1966, the General Assembly terminated South Africa's Mandate and placed the Territory under the direct responsibility of the United Nations. On 19 May 1967, the Assembly established the United Nations Council for Namibia to administer the Territory until independence. Namibia thus became the only Territory for which the United Nations, rather than a Member State, assumed direct responsibility.

In 1970 the General Assembly set up a voluntary United Nations Fund for Namibia, to help finance the preparations for nationhood. In 1973 the Assembly appointed a Commissioner for Namibia, to carry out the administrative and executive functions of the Council for Namibia.

Over the years, the Council represented the Territory in international organizations and conferences, and took legal action to protect Namibia's interests. It sought to mobilize public opinion by disseminating information on the Namibian question. In 1974 the Council established in Lusaka, Zambia, the Institute for Namibia, to provide Namibians with education and training that would equip them to administer an independent Namibia. In its activities, the Council worked closely with SWAPO, Namibia's liberation movement.

The United Nations continued to press for independence. On 21 June 1971, the International Court ruled

UN Photo/M. Grant

Irish UNTAG police monitors get to know a young Namibian.

that the South African presence was illegal, and that the country was under obligation to withdraw its administration from Namibia. On 20 October 1971, the Security Council agreed that South Africa was obliged to put an end to its

occupation. On 12 December 1973, the General Assembly recognized SWAPO as "the authentic representative of the Namibian people". On 30 January 1976, the Security Council, by resolution 385, called for elections under United Nations supervision.

In April 1978, Canada, France, the Federal Republic of Germany, the United Kingdom and the United States presented to the Security Council a proposal for a settlement of the question of Namibian independence under United Nations supervision and control. The Secretary-General drew up a plan to implement the five-country proposal. On 29 September 1978, the Council approved the Secretary-General's plan, and authorized creation of the United Nations Transition Assistance Group to carry it out.

South Africa accepted the five-country proposal in principle. But negotiations to carry it out would stall repeatedly in the following years. The biggest stumbling-block was South Africa's position linking Namibia's independence to the withdrawal of Cuban forces from Angola—a position the United Nations did not accept.

In the following years, the Secretary-General and his Special Representative travelled extensively throughout southern Africa, discussing problems, clarifying positions, exploring new concepts, and exchanging views with all parties—SWAPO, South Africa, the Organization of African Unity, the Namibian Administrator-General and the front-line States (a loose coalition of southern African States that includes Angola, Botswana, Mozambique, Zambia and Zimbabwe). Various countries promoted talks on the issue—among them the five Western sponsors of the 1978 proposal and Zambia. Gradually the unresolved matters succumbed to the give and take of negotiations.

In March 1987, the Secretary-General reported that all outstanding issues relevant to the United Nations plan—including the choice of an electoral system—had been resolved. The only remaining obstacle was South Africa's insistence on Cuban troop withdrawal as a pre-condition for independence.

In May 1988, Angola, Cuba and South Africa, with the United States as mediator and the Soviet Union as observer, began negotiating a regional peace settlement which included an end to the conflict in south-western Africa and the implementation of the United Nations plan for Namibia's independence.

Eight months of intense negotiations culminated in the signing of the agreement between Angola, Cuba and South Africa on 22 December 1988 at United Nations Headquarters. The agreement provided for the withdrawal of Cuban troops from Angola, measures to achieve peace in south-western Africa, and the implementation of the United Nations plan for Namibia.

On the same day, Angola and Cuba signed at United Nations Headquarters an agreement on the withdrawal of Cuban troops from Angola. The agreement provided for the dispatch to Angola of a United Nations mission, the United Nations Angola Verification Mission (UNAVEM), to verify the withdrawal of Cuban troops. Twelve days later, the UNAVEM observers arrived in Angola.

Satisfaction over the agreements was marred by a tragic event. On 21 December, the day before the signing of the agreements, the Commissioner for Namibia, Bernt Carlsson, of Sweden, was killed in an airplane explosion over Scotland, while returning to United Nations Headquarters for the signing ceremony.

With the conclusion of the agreements, the way to Namibia's independence had been finally cleared. Under the 22 December agreement, South Africa undertook to cooperate with the Secretary-General to ensure the independence of Namibia through free and fair elections.

On 16 January 1989, the Security Council set 1 April 1989 as the starting date for the implementation of the independence plan. On 31 March, Special Representative Ahtisaari arrived in Namibia, and the deployment of UNTAG in the Territory began.

Even at that point the process came under threat. On 1 April 1989—the day set for the start of the transition to

independence—SWAPO armed personnel entered Namibia from Angola. Clashes with the South West African Police led to the death of some 300 SWAPO militants, among others. For one dangerous moment, the whole operation seemed in doubt.

The Newest Member

On 6 April 1990, Namibia applied for United Nations membership. On 17 April, the Security Council unanimously recommended to the General Assembly the admission of the new nation. On that day the Secretary-General told the Council that this was "the culmination of an effort sustained over long years to enable the people of Namibia to take charge of their destiny and assume the place to which they are entitled in the community of nations.

"The accomplishment by the United Nations of its mission in Namibia," the Secretary-General said, "demonstrates how long-standing conflicts, seemingly insoluble, can be made to yield to the procedures of peaceful settlement once the international community agrees to join hands and use the world Organization for its intended purposes. The gains that are thus made strengthen the international rule of law and the principles of democracy and human rights and thus consolidate peace."

Canadian representative Yves Fortier said to the Council that "the implementation of the Namibian settlement plan, involving two thirds of the United Nations membership, has been a truly international effort."

The Security Council President for April, Tesfaye Tadesse, of Ethiopia—also the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples—characterized Namibia's application as "unique, not only because it marks the culmination of the long and arduous struggle of a people for freedom, justice and independence, but also because it is the end of a saga involving a trust betrayed and a process in which numerous resolutions were violated and few upheld.

"It is a unique occasion," Tadesse said, "because it concerns an ex-colonial Territory over which the United Nations had assumed direct juridical responsibility. It is unique because it pertains to a newly born nation in whose emergence the United Nations has played the significant role of midwife."

With the advent of independence, the Council for Namibia had completed its task. It held consultations to transfer to the new Government its programmes, activities and assets. Fittingly, it held its last meeting in Namibia, the land it had sought for 23 years to make independent. Meeting in Windhoek on 11 April, having fulfilled its mandate, the Council declared itself "proud to recommend to the General Assembly its own dissolution."

UN Photo/M. Grant

Namibian Prime Minister Geingob speaks after the raising of the Namibian flag at United Nations Headquarters.

On 23 April 1990, the blue, white, green, red and gold flag of Namibia was raised at United Nations Headquarters, in the presence of Namibia's Prime Minister, Hage Geingob. The Republic became the 160th Member State of the United Nations.

"It is a special occasion for the United Nations each time a new State is admitted," said General Assembly President Joseph N. Garba, of Nigeria. "The case of Namibia, however, is unique, since its independence is in part the

brainchild of the United Nations. Namibia's accession to independent nationhood . . . is therefore a victory for the international community."

"Namibia's independence attests to...the success of multilateralism," said the President of the United Nations Council for Namibia, Peter Dingi Zuze, of Zambia. "In these days of *rapprochement,* we cannot but express the hope that multilateral efforts will be crowned with success in other conflict situations."

"Namibia pledges to live at peace with its neighbours," Namibian Prime Minister Geingob told the General Assembly. "We are committed to building a democracy in which violent confrontation and the politics of hatred will be things of the past, a democracy in which the concept of reconciliation is already slowly but decidedly permeating... our society."

"The new State is now taking its rightful place among the community of nations," the Secretary-General said, welcoming the new Member in the world body. "What has happened in Namibia is a triumph for the principles that are enshrined in the Charter of the United Nations."

Namibia: New Nation, New Needs

To celebrate the historic occasion of Namibia's admission as the newest Member State of the United Nations, an exhibit entitled "Namibia: New Nation, New Needs" was opened by the Secretary-General at United Nations Headquarters in New York on 23 April 1990. A standing ovation had accompanied the Assembly's approval of Namibia's application for membership as Namibia took its place among the community of nations.

UN Photo/M. Grant

Secretary-General opens photo exhibit on Namibia. Looking on, from right to left, are General Assembly President Joseph N. Garba, Namibian Prime Minister Hage G. Geingob, and Thérèse P. Sévigny, UN Under-Secretary-General for Public Information.

The exhibit looks to the future and to the national development that will benefit all Namibians. But it also touches briefly on the past and the long struggle for independence which has been on the United Nations agenda for more than 40 years. An important section of the exhibit captures some of the excitement of the past year's process of self-determination which took place under the supervision and

control of the United Nations Transition Assistance Group (UNTAG).

Through 100 colour and black-and-white photographs, the beauty and diversity of the land and its people are evoked. Namibia is one of the largest countries in Africa—bigger than the United Kingdom, the Federal Republic of Germany, Italy and the Benelux countries combined. The Namib and the Kalahari deserts are pictured in stark contrast to the well-watered sliver of land in the north-east—the Caprivi Strip—and the central highlands and farming territory in the south. People of many stripes and shades are to be found in Namibia, which has a population of about one-and-a-half million. Bastars, Bushmen, Damaras, Hereros, Kavangos, Namas, Ovambos, Tswanas, whites and others bring a rich texture to the cultural fabric of the country.

The colours of the new Namibian flag—black, red and green—are to be seen in a series of banners that float throughout the exhibit, which was displayed at United Nations Headquarters through the month of August. The exhibit is now to travel to UN regional centres and ultimately find a permanent home in Namibia itself.

The exhibit covers an enormous span of Namibia's history without dwelling too much on the past. The striking photographs include those of paintings on the rocks of Mount Brandberg, Namibia's highest mountain, and nearby ranges, thought to be the largest collection of rock art anywhere in the world. They bear silent witness to an ancient human past, dating back thousands of years. Many different African peoples were living there when the Europeans began arriving towards the end of the fifteenth century. Hunters, traders and missionaries pressed westwards and established themselves in increasing numbers after the creation of the German colony of South West Africa in 1884.

First under the Germans, followed by the South Africans who took over in 1915 during the First World War, the present-day patterns of land use, industry and political system took hold. By the 1960s, whites had reserved for themselves some two thirds of the country—the better

farming land on the central plateau, the rich mining areas, the only outlets to the sea. Blacks were forcibly segregrated into the remaining one third of the land area—the poorest and least productive. There, dispossessed of their cattle and forced to live under *apartheid* laws, the spirit of struggle was born.

One of the challenges for the future is to sustain and improve economic growth, which has been less than optimal at 1 per cent per annum. Namibia's mineral riches have earned it world-wide fame and assured it a key place in the markets for diamonds, uranium, copper, silver, lead, tin, zinc and gold. Developing these reserves judiciously to benefit the country and distribute profits as widely as possible among all Namibians is a challenge for the new Government, as is an agricultural policy that addresses the special needs of the northern areas. Namibia does have the foundations of good agriculture in pockets of the country where karakul sheep farming has been developed. However, most food is imported; what subsistence agriculture exists is not sufficient to feed a population that is growing at the rate of 3 per cent annually.

The words of the President of the General Assembly, Joseph N. Garba (Nigeria), encapsulate the feelings of all associated with this event:

> "It is a special occasion for the United Nations each time a new Member State is admitted. The case of Namibia, however, is unique, since her independence is in part the brainchild of the United Nations. Namibia's accession to independent nationhood and its entry to the United Nations is, therefore, a victory for the international community as a whole: for the people of Namibia as well as for the United Nations."

Mandela at the United Nations

On 22 June 1990, a radiant Nelson Mandela stood at the podium of the General Assembly Hall—the same hall in which the world community had many times called for his liberation during his 27 years in detention in South Africa. He was addressing a special session, convened in his honour, of the United Nations Special Committee against *Apartheid*.

UN Photo/P. Sudhakaran

Mandela had a busy day at the United Nations. He met with Secretary-General Javier Pérez de Cuéllar and with General Assembly President Joseph N. Garba, of Nigeria, held a press conference and attended a luncheon offered by the African Group of Member States at the United Nations. His visit was part of a 12-day tour of the United States, where he went to seek political support for the anti-*apartheid* struggle and to raise funds for the African National Congress (ANC) of South Africa, of which he is Deputy President.

Among the speakers addressing the special session

were the United Nations Secretary-General, the General Assembly President, the President of the Security Council, Pierre-Louis Blanc, of France, the Chairman of the Special Committee against *Apartheid*, Ibrahim Gambari, of Nigeria, and the Governor of the State of New York, Mario Cuomo.

In his speech, Mandela reviewed recent initiatives taken by the ANC for a just political settlement in South Africa, stressed the importance of international pressure to reach such a settlement, and thanked the world community for its action over many years to ensure his release and that of other South African political prisoners.

Excerpts:

"...We hold it as an inviolable principle that racism must be opposed by all the means that humanity has at its disposal. Wherever it occurs, it has the potential to result in a systematic and comprehensive denial of human rights to those who are discriminated against. This is because all racism is inherently a challenge to human rights, because it denies the view that every human being is a person of equal worth with any other, because it treats entire peoples as sub-human.

"This is why it was correct to characterize the *apartheid* system as a crime against humanity and appropriate that the international community should decide that it should be suppressed and punishment meted out against its perpetrators. We pay tribute to this Organization and its Member States for this and other decisions and actions it took to expunge this crime...

"The United Nations Declaration on South Africa...adopted by consensus at the sixteenth special session of the General Assembly last December...will go down in history as one of the most important documents in the struggle of the international community against *apartheid*. The fact that it was adopted by consensus was itself a telling blow against the *apartheid* system and a vital statement underlining the unity of the world community on the South African question and its resolution...

"What must be clear, however, is that the *apartheid* system remains in place... the profound and irreversible changes which the Declaration visualized have not yet occurred... Nothing which has happened in South Africa calls for a revision of the positions that this Organization has taken in its struggle against *apartheid*. We therefore strongly urge that there should be no relaxation of existing measures. The sanctions that have been imposed by the United Nations and by individual countries should remain in place.

"We also urge that the United Nations should do everything in its power to maintain the unity it achieved when it adopted the Declaration on South Africa last December. We therefore hope that all Member States will continue to act in concert so as not to create any situation in which those who are opposed to change in our country find encouragement to resist change, because some countries would have destroyed the consensus that has been achieved...

"At the initative of the ANC, the process has begun which could lead to a just political settlement in our country. At our well-known meeting in Cape Town, at the beginning of last month, we agreed with the South African Government on the removal of the obstacles to negotiations... The process of implementing that agreement has started. But...a lot still has to be done before we can say that a climate conducive to negotiations has been created.

"We therefore still have some distance to travel before we undertake the further steps... leading to negotiations for the adoption of a new, democratic Constitution. The fact that a good beginning was made in Cape Town should not lead us to conclude that further progress is assured or that we will not have to confront major obstacles in future...

"We believe that President de Klerk and his colleagues in the leadership of the ruling party are people of integrity. We are of the view that they will abide by decisions that are arrived at in the course of our discussions and negotiations. This, in itself, is an important victory of our common struggle because it is a struggle which has made the cost of maintaining the *apartheid* system too high, and helped to convince the ruling group in our country that change can no longer be resisted.

"It is, however, also true that there are many among our white compatriots who are still committed to the maintenance of the evil system of white minority domination. Some are opposed because of their ideological adherence to racism. Others are resisting because they fear democratic majority rule...

"The ANC is determined to do everything in its power to ensure speedy movement forward towards the peaceful abolition of the *apartheid* system. To this end, we are engaged in many initiatives within South Africa, aimed at bringing into the process of negotiations all the people and the representative political formations of our country. We have to overcome the mistrust that exists on both sides, and reinforce the understanding that the only victory we should all seek is the victory of the people as a whole, and not the victory of one party over another.

"It is obvious that none of these processes can be easy. We are, however, inspired by the experience of the people of Namibia and our comrades-in-arms of SWAPO [the South West Africa People's Organization], who also overcame the divisions and the mistrust generated by the *apartheid* system, carried out a peaceful political process within a relatively short period of time, and are today a proud nation of independent people...

"We also salute the front-line States of southern Africa and the rest of our continent for their own enormous contribution to the struggle against *apartheid*, which has brought us to the point today when we can say that the victory of our struggle for a united, democratic and non-racial South Africa is within our grasp...

"This is for us a moving moment, because we know that as we stand here we are among friends and people of conscience. We know this because we know what you did over the decades to secure my release and the release of other South African political prisoners from Pretoria's dungeons. We thank you most sincerely for this, especially because you have thus given us the opportunity to join hands with you in the search for a speedy solution to the

enormous problems facing our country, our region and continent, and humanity as a whole...

"We know also that you harbour the hope that we will not relent or falter in the pursuit of that common vision which should result in the transformation of South Africa into a country of democracy, justice and peace. Standing before the nations of the world, we make that commitment, strengthened by the knowledge that you will fight on side by side with us, until victory is achieved...

"The distance we have to travel is not long. Let us travel it together. Let us, by our joint actions, vindicate the purposes for which this Organization was established and create the situation where its Charter and the Universal Declaration of Human Rights will become part of the body of law on which will be based the political and social order of a new South Africa. Our common victory is assured. Thank you."

Convention on the Rights of the Child

On 20 November 1989, the General Assembly took a giant leap forward in extending the scope of international law relating to children when it adopted the United Nations Convention on the Rights of the Child. In his statement to the Assembly, the Secretary-General congratulated United Nations Member States for setting aside differences to translate ideals into legal obligations:

> "The Convention you have just adopted constitutes an instrument of far-reaching significance, as visionary as it is timely. First, it addresses the needs of those who are humanity's most vulnerable as well as its most cherished resources. It is axiomatic that they should be afforded special protection. Secondly, it calls for the development of children through access to information, education, play, leisure and cultural activities and the right to freedom of thought, conscience and religion. And thirdly, it seeks to assure the entire spectrum of the rights of the child, and the direct involvement of children in the exercise of their rights, while recognizing the equal worth of the diverse cultural values of the human community."

As a follow-up to the adoption of the Convention, a World Summit for Children will be held at United Nations Headquarters in September 1990. The Summit, organized by the United Nations Children's Fund (UNICEF), will urge national leaders, brought together from all corners of the globe, to focus exclusively on issues affecting the future of the younger generation. The Heads of State and Government of Canada, Egypt, Malaysia, Mexico, Pakistan and Sweden initiated the project and are leading the preparations.

At the 1990 session of the UNICEF Executive Board, the Chairperson, Margarita Diéguez, of Mexico, said that UNICEF must be ready to respond to the opportunity offered by the new Convention on the Rights of the Child. James Grant, Executive Director of UNICEF, has, on several occasions, expressed the hope that the Convention would

represent the emergence of a new ethic of responsibility with which societies would act towards children.

Back to the Drawing Board

Before 1989, the body of law protecting children was dispersed in a number of international treaties and declarations. The United Nations concern with the issue of protecting children's rights dates back to 1946, when it was discussed in a subsidiary body of the Economic and Social Council. On 20 November 1959, the General Assembly adopted the Declaration of the Rights of the Child "to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth". The Assembly called upon parents, individuals, voluntary organizations, local authorities and national Governments to strive for observance of the proclaimed rights by legislative and other measures. The year 1979—the twentieth anniversary of the adoption of the Declaration of the Rights of the Child—was celebrated as the International Year of the Child. It was also the year when a suggestion by the Government of Poland that the Declaration should be supplemented by a binding treaty gathered momentum. Within the Commission on Human Rights, a Working Group was established to examine the draft text of such a treaty.

The text of the Convention had to achieve the consensus of the international community. It had to bridge different legal, religious and cultural traditions, perceptions and concerns and distil them into a single document. Before the finishing line was reached, many hurdles had to be overcome. The draft Convention went through several stages of revision to create acceptable compromises on contentious issues such as:

- Should the provisions of the Convention apply from the moment of the child's conception or birth?
- How should the Convention reflect varying definitions of the family and the role it plays in different societies?

- How should the question of ensuring alternative family care for a child without a family be dealt with in view of varying legal systems, some of which allow for protection and care of children outside the family but expressly forbid adoption?
- What guidelines should be used in connection with the recruitment of young persons in the armed forces?
- How can the Convention be made to conform with the UN Standard Minimum Rules for the Administration of Juvenile Justice?
- What is the content of the right to freedom of thought, conscience and religion?

UN Photo/J.P. Laffonte

A child deprived of a family environment is entitled to special protection and assistance provided by the State.

After a decade of often intricate negotiations, the Convention—a "Bill of Rights" for children—emerged which recognizes that children have inalienable rights which have to be given special protection. A guiding principle established by the Convention is that the best interests of the child shall be a priority consideration in official actions concerning the child.

The Convention places primary responsibility for child care in the family. When there is a breakdown in its ability to meet the child's needs, society and the State have the responsibility to provide adequate

alternative legal and other protection. Signalling their approval of the Convention and their intention to consider making it law on a national level, 61 countries signed it on 26 January 1990, the day it was opened for signature. This was an unprecedented, first-day response for any United Nations treaty, and one which has considerable symbolic importance.

Under One Legal Umbrella

The Convention has 54 articles that spell out a child's right to survival, protection and development. The first article determines that the rules of the Convention apply to every person under age 18, except where national law sets the age of majority lower. The Convention paints with broad brush-strokes the panoply of rights to which children are entitled. It recognizes their special vulnerability and treats their civil, political, economic, social and cultural rights as elements of an interdependent, or mutually reinforcing, package. The Convention breaks new ground with this holistic approach, which acknowledges that although a child may be adequately nourished (a social right), the right to develop fully is not adequately protected

UN Photo/Jack Lang

States Parties should respect and promote the child's right to participate fully in cultural and artistic life.

unless the child is also educated (a social and cultural right), allowed to participate in culture and religion (a cultural right), and shielded from such things as arbitrary detention (a civil right) and exploitation at work (a social and economic right).

Under the Convention, all children are entitled to a name and nationality. Cultural values should be especially nurtured if the child belongs to an ethnic, linguistic or religious minority or is indigenous. Under article 12, when a child is capable of forming his or her views, those opinions are to be given due weight in all matters, particularly in judicial and administrative procedures, directly affecting the child.

The child's right to express an opinion is also guaranteed. This goes hand in hand with freedom of thought, conscience and religion, and underlines that already established civil and political rights also apply to children.

UN Photo/AZZI

The right of the child to freedom of thought and religion shall be respected.

States are legally bound to do all within their means to reduce child mortality, to promote health care and nurture mental well-being. Children also have the right to education on the basis of equal opportunity as set out in article 28. Education, considered a fundamental right, is still inaccessible to large groups of the world's children. An esti-

mated 120 million children between the ages of 6 and 11 do not attend school. In many developing countries, one pupil out of seven drops out before reaching second grade. Primary education should be compulsory and available free to all, and secondary education should be available to as many as possible. Higher education and vocational training should be accessible to all on the basis of capacity. Countries that do not meet these requirements right now should work towards such goals. The Convention also recognizes the importance of international co-operation to attain these objectives.

Although all societies decry the need for children to be a part of the labour force, in practice, children in the workplace is a world-wide problem. According to the International Labour Organisation (ILO), well over 50 million

UN Photo/Ray Witlin

The child's right to be protected from performing hazardous work or work that interferes with education or is harmful to health or development is recognized.

are in the labour force, many of them subject to unsafe working conditions and deprived of a basic education and a normal family life. The ILO has been responsible for a series of conventions that attempt to define the limits within which

child labour should be allowed, but it is still up to countries to enforce these scrupulously. Taking up an issue that has been extensively addressed in the ILO, the Convention reiterates, in article 32, the child's right to protection from economic exploitation. In particular, children should not perform work that is likely to be hazardous or that interferes with their education.

Stumbling-blocks Overcome

Instead of shying away from controversy, the drafters of the Convention addressed a host of contentious issues, by which the treaty as a whole was strengthened. For example, the treaty is unprecedented in its attempt to protect children against violence and abuse. Countries are required to ensure that the child is protected from maltreatment and exploitation and to follow up on reported cases of abuse according to articles 34, 35 and 36. Obligations to children in special circumstances are also covered, such as refugee children (article 22), those in trouble with the law (article 40) and disabled children (article 23).

Article 20 requires nations to give special protection to children who are deprived of a family environment and to ensure that appropriate care is provided. The issue of adoption, mentioned as one of several means of alternative care, could have become an obstacle since it is discouraged or even prohibited in some countries. It has been abused in others, having given rise to cases of trafficking in and abduction of children. Article 21 recognizes the desirability of continuing the child's upbringing in the country of origin and urges that placement abroad should only be carried out under strict regulations and with the best interests of the child as the paramount consideration.

Another area of contention was the use of children in armed conflicts. After prolonged debate, article 38 fixed the minimum age for recruitment into the armed forces at 15 years, with priority being given to the oldest of those between 15 and 18 years of age.

Translating Words into Action

The adoption of a treaty is only a first step towards its implementation. The Convention enters into force when 20 countries have ratified it, which means they have declared themselves to be bound by its provisions. The next step will be the establishment of a Committee on the Rights of the Child. It will consist of 10 experts serving in their individual capacities, i.e. not serving as representatives of Governments. The Convention requires countries to submit periodic reports to the Committee on the administrative, legislative, judicial and other steps they have taken or are taking to carry out the Convention's directives.

The Committee may consider requests from States for technical advice or assistance in meeting their obligations under the Convention and pass them on to appropriate United Nations bodies for action. The Secretary-General may be asked to carry out studies, while various UN bodies could be called upon to provide technical assistance and prepare expert reports.

The Convention, as of 5 July 1990, had been signed by 94 States and ratified by 9 (Belize, Bolivia, Ecuador, Ghana, Guatemala, the Holy See, Mongolia, Sierra Leone and Viet Nam). Several countries have expressed their intent to ratify the Convention, in time for the World Summit for Children coming up in September 1990. Some countries still in the process of preparing ratification of the Convention have already taken steps to give effect to some of its provisions.

A number of international non-governmental organizations participated in the drafting process for the Convention, and on the basis of their direct field experience in working for children, they provided valuable expertise and momentum to keep the negotiations moving. Their contribution will continue to be central to the effective implementation of the Convention. The Convention will need to be interpreted in language that is easily understood by both children and the adult public and disseminated widely. And in order to develop a well-informed and vocal constituency, the media will be called upon to play its watchdog role.

Feedback from all regions indicates a ferment of

positive action in the period of less than a year since the adoption of the Convention:

Africa

Ghana and Sierra Leone have already ratified the Convention, and Kenya and Nigeria are moving along with the ratification process. Liberia expects to sign and ratify it before the Summit. The Sudan has designated 1990 as the Year of the Child and is ready to ratify.

> The Organization of African Unity (OAU) committed itself to drafting an African Charter for Children. The African Human Rights Commission, in co-operation with OAU, prepared the draft of such a Charter to ensure full implementation of the Convention and to supplement its provisions.

Asia

Indonesia and the Philippines have set in motion the process of ratification. At the urging of Indonesia, the Association of South-East Asian Nations recently included in its agenda discussion of progress in ratifying and implementing the Convention and will have a regional meeting on this issue in August 1990.

> In Asia, where biases in favour of the male child have made untold millions of young girls and women "second-class" members of their homes and communities, the South Asian Association for Regional Co-operation has designated 1990 as "The Year of the Girl Child".

Europe

An extensive consultative process with parliaments, non-governmental organizations and local authorities has been initiated. Denmark, Norway and Sweden are in advanced stages of ratification, as is France. Poland, whose 1979 proposal for the Convention provided a needed impetus, and other Eastern European countries are in the midst of restructuring, but the Convention is still an important priority with them. The Holy See was the first European State to ratify the

treaty, despite some concern over the absence of specific references to the rights of the unborn child. Spain has called for the early entry into force of the Convention and for States to ratify it with a minimum of reservations.

Denmark has said that UNICEF's advocacy role will receive impetus as a result of the Convention. However, it felt that issues such as child abuse, labour and drug addiction needed to be followed up.

Latin America

In this region, Belize, Bolivia, Ecuador and Guatemala have already ratified the Convention. Brazil, El Salvador, Peru and Nicaragua are nearing completion of preparations for ratification.

Costa Rica has appointed an official advocate for the young—an Ombudsman—a post held by Mario Viquez, a Professor of Criminal Law at the University of Costa Rica. Soon after his appointment, he said it was important to remember that well-intentioned administrative actions were not always well matched with children's needs:

> "The bureaucratization, lack of co-ordination and the duplication of functions, but above all the dehumanization of the administration, is a factor that is always present in the various forms of the modern State. It is here where, somehow, the figure of a child advocate appears necessary."

Colombia has emphasized the urgency of addressing the issue of children and drug addiction. At the 1990 UNICEF Executive Board session, the Colombian representative stated that the Convention had been incorporated into the country's laws.

North America

Although the United States has not yet signed the Convention, there is considerable interest among private voluntary groups in convincing the United States Congress to take up the issue. Canada, which took a special interest at the draft-

ing stage, continues to show commitment to the objectives of the Convention.

> During a visit by the United Nations Secretary-General to Canada in May 1990, Prime Minister Brian Mulroney signed the Convention at a special ceremony in Ottawa.

In addition to the action States will take to prove that their commitment to the Convention is more than mere lip-service, the United Nations system has an urgent task to ensure that its vigilance does not end there. In the words of James Grant:

> We have entered the 1990s on a new wave of international concern to protect children and provide for their special needs... As we embark on the last decade of the twentieth century, armed with the Convention on the Rights of the Child and our hopes for the World Summit for Children, we would do well to remember that meetings, words and promises alone will not save lives or soften the environment in which our children are expected to grow."

It is something of a truism that the Convention cannot, by itself, correct the serious and often deeply rooted problems affecting the world's children: some 100 million living on the streets; more than 50 million working under unsafe and unhealthy conditions; the 14 million who die each year from diseases which are preventable or curable; and the 155 million under five years of age living in absolute poverty. The ratification of a treaty is only the first of a series of actions the State, community groups and families must take to ensure that the law is observed. The United Nations role continues to be central to the effectiveness of this new instrument in international law as the machinery to monitor compliance is put into gear.

At the signing ceremony for the Convention on 26 January 1990, Jan Martenson, Under-Secretary-General in charge of the United Nations human rights programme, reminded the assembled representatives of Governments:

> "The elaboration and adoption of this Convention is an achievement of which we can all be justly proud. It now remains for us, in the words of the Secretary-General, to 'move on to make of the Convention's principles a living reality for each and every child on earth. In so doing, we will not only secure the rights of coming generations; we will also strengthen the foundation of justice, peace and freedom'."

Convention on the Rights of the Child

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and in alienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1 States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2 States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1 In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2 States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3 States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1 States Parties recognize that every child has the inherent right to life.

2 States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1 The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2 States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1 States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2 Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1 States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2 In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3 States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4 Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1 In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2 A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order *(ordre public)*, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1 States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2 To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1 States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2 For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1 The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2 The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order *(ordre public)*, or of public health or morals.

Article 14

1 States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2 States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3 Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1 States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2 No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order *(ordre public)*, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1 No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2 The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1 States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2 For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3 States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1 States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2 Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1 A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2 States Parties shall in accordance with their national laws ensure alternative care for such a child.

3 Such care could include, *inter alia*, foster placement, *kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1 States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2 For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1 States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2 States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3 Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4 States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1 States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2 States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition,

UN Photo/N.Wheeler

The child's right to the highest attainable standard of health and to treatment facilities is recognized.

the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3 States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4 States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1 States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2 The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1 States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2 The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3 States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in

case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4 States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1 States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

UN Photo/A. Jongen

States Parties should make primary education compulsory and available free to all.

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2 States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3 States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1 States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(c) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(d) The development of respect for the natural environment.

2 No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1 States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2 States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

UN Photo/O. Monsen

The child's right to rest and leisure is recognized.

Article 32

1 States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2 States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall, in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall, in particular, take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

UN Photo/Ray Witlin

States Parties should set minimum ages for employment and regulate hours and conditions of employment.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1 States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2 States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3 States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4 In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1 States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2 To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proved guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3 States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected.

4 A variety of dispositions, such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to both their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State Party; or

(b) International law in force for that State.

Part II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1 For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the

present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2 The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3 The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4 The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5 The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6 The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7 If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8 The Committee shall establish its own rules of procedure.

9 The Committee shall elect its officers for a period of two years.

10 The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11 The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12 With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1 States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2 Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3 A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 *(b)* of the present article, repeat basic information previously provided.

4 The Committee may request from States Parties further information relevant to the implementation of the Convention.

5 The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6 States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1 The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2 For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1 Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2 An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3 When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1 The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2 A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3 Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

United Nations Special Observances

International Decades and Years

1981-1990	International Drinking Water Supply and Sanitation Decade
1983-1992	United Nations Decade of Disabled Persons
1983-1993	Second Decade to Combat Racism and Racial Discrimination
1985-1994	Transport and Communications Decade for Asia and the Pacific
1988-1997	World Decade for Cultural Development
1990	International Literacy Year
1990s	Second Industrial Development Decade for Africa
1990s	Third Disarmament Decade
1990-1999	United Nations Decade of International Law
1990-2000	International Decade for the Eradication of Colonialism
1991-2000	Fourth United Nations Development Decade
1991-2000	United Nations Decade against Drug Abuse
1992	International Space Year
1994	International Year of the Family

Annual Days and Weeks

21 March	International Day for the Elimination of Racial Discrimination
Beginning 21 March	Week of Solidarity with the Peoples Struggling against Racism and Racial Discrimination
Beginning 25 May	Week of Solidarity with the Peoples of Namibia and All Other Colonial Territories, as well as those in South Africa, Fighting for Freedom, Independence and Human Rights

4 June	International Day of Innocent Children Victims of Aggression
5 June	World Environment Day
16 June	International Day of Solidarity with the Struggling People of South Africa
26 June	International Day against Drug Abuse and Illicit Trafficking
9 August	International Day of Solidarity with the Struggle of Women in South Africa and Namibia
26 August	Namibia Day
Third Tuesday of September	International Day of Peace
First Monday of October	World Habitat Day
11 October	Day of Solidarity with South African Political Prisoners
Second Wednesday of October	International Day for Natural Disaster Reduction
16 October	World Food Day
24 October	United Nations Day
24-30 October	Disarmament Week
Week of 11 November	International Week of Science and Peace
20 November	Africa Industrialization Day
29 November	International Day of Solidarity with the Palestinian People
1 December	World AIDS Day
5 December	International Volunteer Day for Economic and Social Development
10 December	Human Rights Day

Other International Days

International Women's Day (8 March), World Meteorological Day (23 March), World Health Day (7 April), World Telecommunication Day (17 May), World No-Tobacco Day (31 May), International Literacy Day (8 September), World Maritime Day (during the last week in September), Universal Children's Day (varies; traditionally first Monday of October), World Post Day (9 October) and World Development Information Day (24 October).